

HOUSE BILL REPORT

SSB 5752

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to cost recovery in disciplinary proceedings involving dentists.

Brief Description: Regarding cost recovery in disciplinary proceedings involving dentists.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Marr, Pflug, Hobbs and Keiser).

Brief History:

Committee Activity:

Health Care & Wellness: 3/12/09, 3/20/09 [DP].

Brief Summary of Substitute Bill

- Allows for the collection of fees in disciplinary proceedings involving dentists.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 12 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Kelley, Moeller, Morrell and Pedersen.

Minority Report: Do not pass. Signed by 1 member: Representative Hinkle.

Staff: Jim Morishima (786-7191)

Background:

The Dental Quality Assurance Commission (DQAC) is responsible for the licensure and discipline of dentists. The DQAC, staff from the Department of Health, and Office of the Attorney General perform a variety of tasks related to the disciplinary process, including reviewing complaints, investigating possible violations, evaluating evidence, and conducting hearings. Cases involving unprofessional conduct may be resolved after an adjudicatory

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proceeding (governed by the Administrative Procedures Act) or by stipulated agreement. A dentist against whom action is taken by the DQAC may appeal to courts.

The costs relating to the disciplinary and licensing activities of the DQAC are borne by licensed dentists via fees.

Summary of Bill:

In a contested disciplinary hearing where sanctions are imposed upon a dentist, the DQAC must assess upon the dentist a fee to partially recover the state's hearing expenses. The fee must consist of:

- \$6,000 for every full day of hearing and \$3,000 for every partial day of hearing; and
- up to \$10,000 as partial recovery of reasonable investigation and hearing preparation expenses.

In a disciplinary proceeding involving a dentist that is resolved by an agreement prior to completion of a contested hearing, the DQAC must assess upon the dentist a fee of up to \$10,000 as partial recovery of reasonable investigation and hearing preparation expenses. In a case resolved by stipulated informal disposition, the fee may not exceed \$2,000 per allegation.

If a dentist seeks judicial review of a disciplinary action where a partial recovery fee was assessed, the court must impose a partial cost recovery fee of \$25,000 unless the license holder achieves a substantial element of relief.

The DQAC or a court may waive a fee if it would create a substantial undue hardship for the dentist or it would be manifestly unjust to assess the fee given the circumstances of the case. All fee recoveries and reimbursements must be deposited in the Health Professions Account and allocated to the DQAC. The fee recoveries must be fully credited in reduction of actual or projected expenditures used to determine dentist license renewal fees.

Appropriation: None.

Fiscal Note: Requested on March 6, 2009.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The fee for dentists is about to dramatically increase to one of the highest fees in the nation. The number of contested hearings is on the rise, which leads to higher expenses for the Attorney General's Office and for hearings. The number of cases being appealed to the courts is also on the rise. In none of these cases has the court overturned the original

outcome of the case. This bill may limit these appeals. Florida has instituted a similar cost-recovery system.

(Opposed) None.

Persons Testifying: Linda Hull, Washington State Dental Association.

Persons Signed In To Testify But Not Testifying: None.